

## **DETAILED ACTION**

### ***Drawings***

0.5 The drawings were received on 2/4/2009. These drawings are accepted.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. These claims are indefinite. Applicant has not defined the orientation of the interfering body and projection and so claims to an angle between the body and projection are undefined.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14-17, 20-21, 25, 27-30, 32-33, 37, 39, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Igel.

6. Igel has roof opening front edge, movable roof element 3, angled projection 20 extending from the front edge in a closing motion defined around the hinge axis at 21, body mounted frame component 2, recessed area of the roof element to the right of the projection 20 in figure 3, seal element 18 received within the recessed area, as seen in figure 3. The projection 20 is capable of

receiving an interfering body at the height of the seal 18 or below the upper surface thereof as it rotates to closure before seal engagement, just as that of applicant.

7. As to claim 15, the roof element moves downwardly with a final closing motion perpendicular to the roof surface.

8. As to claim 16, the roof element is hinged to move in an arcuate manner, hence obliquely.

9. As to claim 27, the component 2 defines a depression in front of and below the seal.

10. As to claims 25 and 37, the projection of Igel is well able to engage a 4mm interfering body.

11. As to claims 39-40, as the motion is arcuate, the projection of Igel is fully capable of oblique contact prior to seal engagement.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 22-24, 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igel in view of Schmidhuber et al.

15. Applicant has challenged, for the official record, the prior statements of judicial notice relative to claims 22-24 and 26.

16. With regard to claims 22-23, 34-35, Schmidhuber et al. teach that an edge projection (of foam) (see col. 2, line 1) may extend around the entire periphery of the roof element, including the front edge, being affixed thereto.

17. It would have been obvious to one of ordinary skill to provide in Igel the edge projection extent and material as taught by Schmidhuber et al. as a known structure in this art in order to protect the edge of the roof element.

18. Claims 25, 37, 39 and 40 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Igel.

19. The size of the projection is not a patentable distinction but an obvious expedient to one of ordinary skill in the art, claims 25, 37.

20. As to claims 39 and 40, Igel is fully capable of forming an obtuse angle with an interfering body that is between the projection and frame component, dependent on angle of orientation of the interfering body.

21. Claims 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igel in view of Lamm et al. .

22. Lamm et al. teach that a roof element drive may have a monitor 24 coupled to the drive and that it is known in this art to use parameters such as current, torque, revolutions and speed to effect safety by reversing or stopping the motor drive.

23. It would have been obvious to one of ordinary skill to provide in Igel the drive control as taught by Lamm et al. in order to affect safety.

***Response to Arguments***

24. Applicant's arguments filed 2/4/2009 have been fully considered but they are not persuasive.

25. Applicant's argument regarding Igel being incapable of contacting a portion of the interfering body level with or below the seal is traversed. In this regard, applicant is encouraged to place an imaginary interfering body as disclosed by applicant atop the seal and in contact with the element 14, pressing the latter downwardly. Contact is fully capable.

26. It is noted that the claim amendments do not correspond in all limitations to that discussed at the interview of 1/16/2009.

27. Remaining arguments are responded to above.

***Conclusion***

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/  
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